IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 5252 of 1992

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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NANA AMADRA GR. GRAM PANCHAYAT - Petitioner(s)
Versus
COLLECTOR - Respondent(s)

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Appearance :
MR CHINMAY GANDHI for MR MB GANDHI for Petitioner(s) : 1,
MR AY KOGJE, AGP for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 22/02/2007

ORAL JUDGMENT

1. Shri Chinmay Gandhi, learned counsel for the petitioner; Mr. A.Y Kogje, learned AGP for the respondent-State. Parties are heard.

2. The petitioner Nana Amadra Gram Panchayat has

filed this writ petition challenging the order dated 2.6.92 passed by the Collector, Vadodara in Case No. Jamin/K/Vashi/1061/92 under Section 96 of the Gujarat Panchayat Act, 1961, where under, the Collector has directed dispossession of the petitioner-Panchayat from the land of survey no. 78 which was used as cremation ground on the ground that there was a dispute and the petitioner Panchayat was proposing to change the use of the land of the cremation ground. Shri Gandhi, learned counsel for the petitioner, placing reliance upon Annexure:F, an alleged compromise, dated 2.3.92, submits that the village Panchayat and other village Panchayats and representatives of different villages had agreed that survey no. 78 be not used as cremation ground and a temple be constructed, according to him, if that was the settlement, then the petitioner could not be dispossessed from the said land and the State could not take management of the cremation ground in its turn.

3. From the order passed by the Collector, it clearly appears that even at the time of hearing

of the dispute, the parties had submitted that there did exist a dispute between the parties in relation to change of user of the land.

4. When a particular land is reserved as a cremation ground, then Panchayat would not be entitled to change the use of the land. It is not the case of the petitioner Panchayat that they wanted to discontinue the use of land of survey no. 78 and they had earmarked some other land as cremation ground. In absence of a cremation ground for the local residents, it would become almost impossible to cremate the dead.

5. In the considered opinion of this Court, the Panchayat was not entitled to change the use of the land and the State was justified in taking possession and management of the said land. The petition deserves to and is accordingly dismissed. Rule is discharged. No costs. Interim relief, if any is vacated.

[R.S. GARG, J.]

pirzada/-